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June 20, 1958

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CONCORD, N.H.

Mr. Alfred S. Cloues, Treasurer
State of New Hampshire
State House
Concord, New Hampshire

Dear Mr. Cloues:

In your letter of April 7, 1958 you asked several questions relative to RSA 6:13. This section provides as follows:

"Borrowing Money. If money due from the state is demanded and there are not sufficient funds in the treasury available for the payment of the same, the treasurer, under the direction of the governor and council, is authorized to borrow on the state's credit, for a period of not more than five years, at the lowest rate of interest obtainable, such sums as may be necessary; but the entire indebtedness incurred under this authority shall not exceed the sum of one million, six hundred thousand dollars per annum."

You ask whether the words "per annum" refer to the State fiscal year or to the calendar year. RSA 9:13 provides:

"Fiscal Year. The fiscal year of the state shall commence on the first day of July and end on the thirtieth day of June. This fiscal year shall be used for purposes of making appropriations and of financial reporting and shall be uniformly adopted by all departments of the state."

Mr. Alfred S. Cloues -- 2.

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Since the economy of the State is geared to the fiscal year we believe that the expression "per annum" must be construed as relating to the period extending from July 1 to June 30 of the following year.

You also ask whether renewal of obligations previously incurred under RSA 6:13 should be included as indebtedness incurred during the fiscal year of renewal for purposes of the \$1,600,000 limitation prescribed in that section. In our opinion the renewal of obligations previously incurred should not be again considered as indebtedness incurred during the fiscal year when the obligations are renewed. It need only be included during the year when the original borrowing is done.

In the second from the last paragraph of your letter you ask whether during a five year period a total of \$8,000,000 may be borrowed provided that not more than \$1,600,000 in new borrowing is made in any year. This would be possible but it should be noted that the terms of such obligations, including renewals, may not exceed five years. If the original obligation was for a term of three years the maximum term of a renewal of that obligation would be two years.

You also ask whether you may borrow in excess of \$1,600,000 per annum, if such part of the indebtedness incurred is repaid during the same fiscal year so that the balance outstanding with respect to that fiscal year will not exceed \$1,600,000. We answer in the negative. RSA 6:13 provides that indebtedness incurred shall not exceed the limitation prescribed. This section does not authorize borrowing in excess of that amount on partial repayment of obligations previously incurred during the fiscal year.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETS:w